IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.R. No.701 of 1994
Date of decision:18.12.2007

Sunder Singh **.....Petitioner**

Versus

State of Haryana **.....Respondent**

CORAM:- HON'BLE MR.JUSTICE RAKESH KUMAR GARG

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Present: Mr. Hitesh Pandit, Advocate for Mr.Rajesh Garg, Advocate for the petitioner.

Mr. S.S. Pattar, Sr. DAG, Haryana.

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Rakesh Kumar Garg, J .

The present revision petition has been filed by the accused petitioner-Sunder Singh, Proprietor of Kashyap Misthan Bhandar, Opposite New Bus Stand, Safidon, Jind, against the judgement dated 18.10.1994 whereby his appeal has been dismissed by Sh. Dewan Chand, Additional Sessions Judge-II, Jind, thereby upholding the judgement and order dated 19.10.1992/20.10.1992 passed by Sh. Krishan Kumar Bali, HCS Sub Divisional Judicial Magistrate, Safidon vide which he has been held guilty under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954, and has been ordered to undergo rigorous imprisonment for a period of 7 months and to pay a fine of Rs.1,000 and in default of payment of fine to further undergo rigourous imprisonment for a period of 1 month.

As per the prosecution case, sample of “Besan Ka Ladoo” was taken from the premises of the petitioner. The said sample was sent to the Public Analyst, Haryana, Chandigarh and as per the report of the

Public Analyst, Haryana, Chandigarh, the sample was coloured with prohibited yellow coltar dye which was not included in the list of permitted colours and the sample was found not suitable for human consumption. Hence, the complaint was lodged in the Court. On appearance, the accused-petitioner exercised his right under Section 13(2) of the Prevention of Food Adulteration Act, 1954. According to the report of the Director Central Food Laboratory, Mysore the sample did not conform to the general standard laid down for a article of food under the provisions of the Act and Rules thereof, in fact it was found fungal infested. Finding a prima facie case under Section 7/16(1)(a)(i) of the Act, the accused was charge-sheeted to which he pleaded not guilty and claimed trial. After closure of prosecution evidence, the accused was examined under Section 313 Cr.P.C. The accused in his examination pleaded false implication. The accused was called upon to lead evidence in his defence. However, the accused-petitioner did not lead any evidence in his defence.

Sub Divisional Judicial Magistrate, Safidon, vide his judgment dated 19.10.1992 held that the prosecution has been able to bring guilt home of the petitioner beyond reasonable shadow of doubt and thus, the petitioner was held guilty and convicted under Section 16(1)(a)(i) of the Act and vide order dated 20.12.1992 was ordered to undergo rigorous imprisonment for a period of 7 months and to pay a fine of Rs.1000/- and in default of payment of fine was ordered to undergo further imprisonment for a period of one month. The Additional Sessions Judge, Jind, found no infirmity in the judgment and order of the trial Court convicting and sentencing the petitioner and accordingly, dismissed the appeal filed by the petitioner vide his judgment dated 18.10.1994.

Mr. Hitesh Pandit, Advocate appearing on behalf of the petitioner has argued only on the question of sentence and has not argued on the merits of the case. Thus, judgment of the Courts below are upheld

and conviction of the petitioner is hereby affirmed. He has stated that the present case is pending for the last about 17 years and he has already suffered a lot by facing the agony of trial for such a long period. It has also been submitted by counsel for the petitioner that the petitioner has also remained in prison for about 15 days . It has been further stated that the petitioner is a poor man and in fact at the time of occurrence he was a student and was studying and therefore, a lenient view be taken and the sentence awarded to him be reduced. In this regard, counsel for the petitioner has placed reliance on the judgments of the Hon'ble Apex Court in **Karamjit Singh v. State (Delhi Admn.)**, 2000(3) RCR (Crl.) 561 (SC), **Sadhu Singh v. State of Punjab** 2004(2) RCR (Criminal) 108 and **Hardwari Lal v. State of Haryana** 2003(1) RCR (Criminal) 10.

I have learned counsel for the parties and have perused the record.

In the case of **Sadhu Singh** (supra) the sentence was reduced to the period already undergone by the convict in that case, keeping in view the fact that the case was pending for the last about 18 years. The Hon'ble Supreme Court has also held that the purpose of criminal law justice is to bring peace discipline and harmony in the society and an opportunity has to be given to an erring individual to reform himself. In **Gurdev Singh v. U.T. Chandigarh** 2003 (1) RCR(Criminal) 121, the sentence of the accused was reduced to already undergone, keeping in view the sufferings of the convict of prolonged trial. It is relevant to mention that in the said case, the accused was convicted under the provisions of Prevention of Food Adulteration Act, 1954. Similarly, in **Hardiwari Lal's case** (supra), despite the fact that minimum punishment of six months provided under the Act, sentence was reduced to already undergone in a case, under the Prevention of Food Adulteration Act, 1954. Thus, keeping in view the fact that in the present case, the accused is suffering

the trial for the last about 17 years and he was a student when the occurrence took place and he had started a sweet shop to supplement his meager income during vacations, the sentence awarded to the petitioner is reduced to the period already undergone by him. However, the sentence, of fine already awarded is enhanced to Rs.5,000/-. The enhanced amount shall be deposited by him within 3 months from the date of receipt of certified copy of this judgment. In default of payment of fine, the petitioner shall undergo the whole of the substantive sentence as imposed by the trial Court.

With the above said modification in the sentence as indicated above, the present revision petition fails and is hereby dismissed.

December 18, 2007 **(RAKESH KUMAR GARG)**
ps **JUDGE**